

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUMMONS FOR JUDGMENT NO.513 OF 2006
IN
SUMMARY SUIT NO.2214 OF 2006

Pradeep Bhaskaran

...Plaintiff

v/s

Rajesh Tibrewala

...Defendant

Mr Clive D'Souza for Plaintiff.

Mr S.C. Thatte for Defendant.

CORAM : **D.K. DESHMUKH J.**

DATE : **16TH JANUARY 2007.**

P.C.

:-

1. The plaintiff has filed this suit on the basis of a dishonoured cheque. According to the plaintiff, he has lent money to the defendant from time to time as they are friends. Towards repayment of the amount, the defendant had given a cheque of Rs.2,86,000/-. That cheque was put in the bank, it was dishonoured. The plaintiff has therefore filed this suit for recovery of that amount.

2. In the reply filed by the defendant, the defendant states that only Rs.95,000/- were borrowed by the defendant from the plaintiff. He does not dispute that the cheque in the amount of Rs.2,86,000/- was given by the defendant to the plaintiff. Though the defendant states that only an amount of Rs.95,000/- was due from the defendant to the plaintiff, he nowhere explains why he issued a cheque of Rs.2,86,000/- in favour of the plaintiff. He claims that after the cheque was dishonoured, he paid an amount of Rs.1,00,000/- to the plaintiff, but the plaintiff did not give him any receipt and also did not return the dishonoured cheque for Rs.2,86,000/-. What is pertinent is that even the date on which Rs.1,00,000/- is paid is not mentioned. In the plaint, the plaintiff claims that he had issued a

letter dated 21st June 2006 demanding the amount of the cheque and relies on the dishonoured cheque. In the reply, the defendant does not deny that he received that letter from the plaintiff. There is no reply sent by the defendant to that letter. Had the case put up by the defendant that after dishonour of the cheque he paid Rs.1,00,000/- to the plaintiff and the transaction was closed but the cheque was not returned been true, on receiving the letter from the plaintiff demanding the amount, first reaction of the defendant would have been to reply to that letter and point out that he has paid the amount of Rs.1,00,000/- and the transaction is closed. The letter is not replied, there is no explanation found in the reply why no reply was sent. It is thus clear that the defendant does not have any defence to offer and therefore, the defendant is not entitled to leave to defend the suit. Summons for judgment is therefore granted, suit of the plaintiff is decreed in terms of prayer clause of the suit. Refund of court fees as per rules.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.